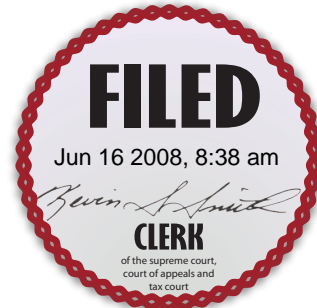


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ROGER MORAN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0711-CR-976

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jose Salinas, Judge
Cause No. 49G17-0705-CM-95262

June 16, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Following a bench trial, Appellant-Defendant Roger Moran was convicted of Battery as a Class B misdemeanor.¹ In this belated appeal, Moran challenges the sufficiency of the evidence to support his conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

The record reveals that on May 28, 2007, Moran and his girlfriend, Brenda Taylor, were sitting around a kitchen table with Moran's brother and sister-in-law at their home at 6406 Kellum Drive in Indianapolis. (Tr. 5-8, 10-11, 28-29, 32, 74, 83) Everyone except Taylor had been drinking alcohol. (Tr. 8, 10, 23) Moran and his brother entered into a heated discussion, and Moran became frustrated. (Tr. 33) Moran stood up and swung his hand back, "backhand[ing]" Taylor and hitting her chin. Tr. p. 85. Tr. 35, 47, 84-85, 94) Taylor stood up from the table and ran away crying. (Tr. 74) Neighbors called police and reported an argument between a male and a female. (Tr. 53-54) When Indianapolis Metropolitan Police Officer Patrick Bragg arrived, Taylor was sitting in her vehicle with three children in the backseat. (Tr. 54) Officer Bragg observed that Taylor was shaken and upset and had a circular red patch that appeared to be fresh on her chin. (Tr. 60, 64) Upon speaking to Officer Bragg, Moran emphasized that he was unsure whether he had struck Taylor intentionally. (Tr. 65-66)

The State charged Moran on May 27, 2007, with domestic battery and Class A misdemeanor battery. Following a July 30, 2007 bench trial, the State dismissed the domestic battery charge, and the court convicted Moran of battery as a Class B misdemeanor (Tr. 1, 50-51, 106-107) The trial court sentenced Moran to 180 days with

¹ Ind. Code § 35-42-2-1 (2007).

credit for four days and 176 days suspended. (Tr. 108-109) On October 9, 2007, Moran filed a verified motion to file a belated notice of appeal, which the trial court granted. This appeal follows.

DISCUSSION AND DECISION

Moran's sole challenge on appeal is to the sufficiency of the evidence to support his conviction of battery. Our standard of review for sufficiency-of-the-evidence claims is well-settled. We do not reweigh the evidence or judge the credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998).

To convict Moran, the State had to prove that he knowingly or intentionally touched Taylor in a rude, insolent, or angry manner. *See* Ind. Code § 35-42-2-1. Moran challenges his conviction by claiming there was inadequate evidence to demonstrate that he knowingly or intentionally hit Taylor. With respect to Moran's claim, we observe from the record that Moran, who was frustrated, admitted to the touching, which he termed a "backhand[ing]," and did not initially deny that it was intentional. (Tr. 85) Further, Taylor told police that Moran had hit her in the chin. Taylor's behavior

following being hit, which included running from the room crying and being shaken and upset in her car, supports the reasonable inference that Moran's actions gave Taylor reason to fear him. Taylor's fear of Moran supports the further reasonable inference that Moran's actions were intentional.

As for Moran's argument that any redness on Taylor's chin was caused by a skin condition, this is merely an invitation to reweigh the evidence. Officer Bragg testified that the redness on Taylor's chin was consistent with having been hit rather than with a skin condition, and the trial court was free to find Officer Bragg's assessment of the injury credible.

Accordingly, we conclude that there was sufficient evidence to support Moran's conviction.

The judgment of the trial court is affirmed.

BARNES, J., and CRONE, J., concur.